

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
<http://www.montgomerycountymd.gov/ozah/index.html>
Phone: (240) 777-6660; Fax (240) 777-6665**

CASE NO. CU 17-06

APPLICATION OF BURTONSVILLE TOWNE CENTER LLC

**NOTICE OF MOTION TO DETERMINE APPLICABLE
ZONING AND DEVELOPMENT STANDARDS**

The subject application seeks a conditional use to allow a drive-thru restaurant, under Section 59-3.5.14.E of the Montgomery County Zoning Ordinance, for property located at 15600 Old Columbia Pike, Burtonsville, MD 20866. The property is further described as Parcel B, Burtonsville Shopping Center subdivision, consisting of a portion of 26.25 acres in the CRT 1.5 C-1.0 R-1.25 H-70 (Commercial/Residential/Town) Zone. The application proposes construction of a Starbucks on a pad site within the shopping center.

This matter is tentatively scheduled for public hearing before the Hearing Examiner on **Friday February 3, 2017**, in the 2nd Floor Hearing Room, Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at 9:30 a.m., or as soon thereafter as this matter can be heard.

Please take notice that on November 2, 2016, the Applicant filed a "Motion to Determine Applicable Zoning and Development Standards" (Motion) with the Office of Zoning and Administrative Hearings (OZAH). The Motion requests one of two alternative rulings from OZAH in advance of the public hearing. It requests that the application be reviewed under the development standards of the C-2 Zone, which were in effect when a preliminary plan of subdivision was approved for the shopping center in 2006, and the current conditional use standards for a drive-thru restaurant under the 2014 Zoning Ordinance. Alternatively, the Applicant requests that the application be reviewed under the both the C-2 development standards (in effect at the time of preliminary plan approval) and the special exception standards of the 2004 Zoning Ordinance. Exhibit 26, p. 2.

According to the Applicant, the drive thru restaurant as proposed does not meet certain development standards governing the "build-to" area under the 2014 Zoning Ordinance (effective on October 29, 2014.) These are listed below:

1. Section 59-4.1.7.B.2.b: This section prohibits locating a drive aisle within the "build-to" area of a lot. The Applicant proposes to locate the drive aisle within the build-to area.
2. Section 59-4.5.3.C.3: This section requires that (1) 70% of the building façade be located within the build-to area of the property, and (2) that the building be no more than 20 feet from the right-of-way. The proposed drive-thru restaurant does not meet these requirements.

3. Section 59-4.5.3.C.3: This Section requires that surface parking be located behind the front building line of the drive-thru restaurant.

Those wishing to comment on the Motion must do so no later than **Monday, December 12, 2016**. All comments must be in writing, signed and filed by 5:00 p.m. on December 12, 2016. A ruling on the Motion determines *only* what zoning regulations govern the application. It will not decide whether the application should be approved.

A complete copy of the Motion and supporting materials may be viewed on OZAH's website at http://www.montgomerycountymd.gov/OZAH/Application_and_Notices.html. The entire file may be reviewed in the Office of Zoning and Administrative Hearings, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

Notices forwarded this 23rd day of November, 2016, to:

Stacy Silber, Esquire
Cynthia Bar, Esquire
Charles Frederick, Esquire, Associate County Attorney
Diane Schwartz-Jones, Director, Department of Permitting Services
Phil Estes, Planning Department
Greg Nichols, Manager, SPES at DPS
Washington Suburban Sanitary Commission
State Highway Administration
Montgomery County Public Schools
Abutting and Confronting Property Owners
(or a condominium's council of unit owners or renters, if applicable)
Civic, Renters' and Homeowners' Associations within a half mile of the site
Any Municipality within a half mile of the site

Office of Zoning and Administrative Hearings

By: 

Lynn A. Robeson
Hearing Examiner